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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,621	07/13/2001	Yukio Maruyama	089367-0114	2132
22428	7590	07/24/2008	EXAMINER	
FOLEY AND LARDNER LLP			BEKERMAN, MICHAEL	
SUITE 500				
3000 K STREET NW			ART UNIT	PAPER NUMBER
WASHINGTON, DC 20007			3622	
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			07/24/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

09/903,621

**Examiner**

MICHAEL BEKERMAN

**Applicant(s)**

MARUYAMA, YUKIO

**Art Unit**

3622

***--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --***

THE REPLY FILED 20 June 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1.  The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a)  The period for reply expires 3 months from the mailing date of the final rejection.  
 b)  The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2.  The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3.  The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a)  They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b)  They raise the issue of new matter (see NOTE below);  
 (c)  They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d)  They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4.  The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5.  Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.

6.  Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7.  For purposes of appeal, the proposed amendment(s): a)  will not be entered, or b)  will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8.  The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9.  The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10.  The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11.  The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet

12.  Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.

13.  Other: \_\_\_\_\_.

/Eric W. Stamber/

Supervisory Patent Examiner, Art Unit 3622

Continuation of 11. does NOT place the application in condition for allowance because:

Applicant argues "the invention as claimed requires that a controller determine a particular position at which to initially place the three-dimensional advertisement image, based upon the avatar's position and/or the avatar's movement. The Examiner is asserting that, if an advertisement is placed in a specific region, it is obvious that the initial VIEWING of that advertisement is based upon the position or movement of the avatar with respect to the virtual world (i.e. the advertisement could be on the left-most area of the screen depending upon the avatar's approach)". Examiner contends that the advertisement is not rendered on the screen unless a user's avatar is in a proper position to see it. This is determining a particular position to place the advertisement, and is inherent based on 3-d virtual modeling. This is not simply a matter of initial viewing. This interpretation depicts initial rendering, and when an advertisement is rendered, it is placed.

Applicant further argues "there is no reasoning or fact to believe that the Examiner's assertion of inherency would necessarily flow from the applied prior art". Heckel teaches a virtual game space. Thus, the inherent principles of 3-d programming flows from a reference having a virtual game space.

Applicant further argues "Burke does not deal with advertisements; rather Burke teaches a virtual world of a shop in which the user is given different views of products to gain a better display of the product". Examiner is confused as to how the virtual product in Burke could NOT be considered an advertisement. It is not a real product. It is an image placed into a virtual environment to increase interest in a real product. To help Applicant in understanding Examiner's interpretation, Examiner will provide the following examples: a cereal box is an advertisement for the brand and the cereal inside, a logo or label on a t-shirt is an advertisement for that brand of clothing manufacturer, and most broadly, an artist signature on a piece of art for sale is an advertisement for that artist and for other works by that artist. These examples are meant to show Applicant that the term "advertisement" is broad and merely requires something that promotes and draws a consumer's attention (which Burke does indeed teach).

Applicant further argues "the server generates a signal to specify that the client is to move the advertisement in the virtual world by changing a position of the advertisement in the virtual world...Heckel fails to teach such a feature". When the timing function of the prior art signals, a rendered advertisement will be changed. The pixels are altered, and therefore, the advertisement does indeed move.